NO 88- 1819

Supreme Court, U.S.
FILED
DEC 17 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

ROBERT L McCORDIC, APPELLANT.

VS.

STATE OF CALIFORNIA, APPELLEE

"ON APPEAL FROM THE COURT OF APPEAL OF CALIFORNIA,

SECOND APPELLANTE DISTRICT."

JURISDICTIONAL STATEMENT

DATED NOV 18th 1988

ROBERT L McCORDIC

P.O.BOX 33202
GRANADA HILLS CAL 91344
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COUNSEL FOR APPELLANT

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QUESTIONS PRESENTED

Whether TITLE 1 SEC 19c of the CALIFORNIA PENAL CODE IS IN VIOLATION OF THE TO A JURY TRIAL AND ASSISTANCE OF COUNSEL, OF THE U.S. AND CALIFORNIA STATE CONSTITUTION, RIGHT TO TRIAL BY JURY. THE APPELLANT WAS DENIED THE JURY TRIAL AND ASSISTANCE OF COUNSEL, HIS BAIL IS SET AT $ 3000.00. HIS FINE IS OVER $21.00. AND HE FACES JAIL TIME OR FORCED LABOR.

WILL A STATE STATUTE TAKE PRECEDENT OVER A A STATE CONSTITUTION AND THE FEDERAL CONSTITUTION WHEN THAT STATUTE IS IN COMPLETE CONTRADICTION TO BOTH CONSTITUTIONS?

DOES THE CALIFORNIA STATE LEGISLATURE HAVE THE RIGHT TO PASS A STATUTE THAT VIOLATES THE NAMED CONSTITUTIONS, WHEN THEY DID TAKE AN OATH TO UPHOLD BOTH CONSTITUTIONS IN ORDER TO FILL THE PUBLIC TREASURY WHICH THEY THEN PROCEED UP THEIR PAY AND FUND THE RETIREMENT OF THE JUDGES AND STATE POLICE OFFICERS, IS THIS NOT A CONFLICT OF INTEREST UNDER THE 9TH AMENDMENT?

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JURISDICTIONAL STATEMENT

ROBERT L. MCCORDIC, THE APPELLANT, APPEALS FROM THE FINAL JUDGMENT OF THE SUPREME COURT OF CALIFORNIA, DATED SEPTEMBER 28th 1988, HOLDING THAT THE CALIFORNIA PENAL CODE SEC 19 OF INFRACTIONS, AS APPLIED IN THIS CASE, ARE NOT UNCONSTITUTIONAL AS BEING VIOLATIVE OF APPELLANTS RIGHT TO A JURY TRIAL, GUARANTEED IN THE SIXTH AMENDMENT AND THE SEVENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES, AS THE APPELLANT WAS FINED OVER $20.00. WHICH ALSO VIOLATES THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION, THE APPELLANT WAS DENIED HIS ASSISTANCE OF COUNSEL, WHICH IS GUARANTEED BY THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

OPINION BELOW

THE OPINION OF THE SUPREME COURT OF CALIFORNIA WHICH APPEARS IN THE APP ENDIX HERETO. THE FINDING OF FACT AND RECOMMENDATIONS WERE NOT PRINTED BY THE SUPREME COURT. THE COURT CLERK TYPED THE WORD DENIED ON THE APPEAL AND DENIED ON THE STAY OF EXECUTION, AND THAT IS THE EXTENT OF THE COURT"s FINDINGS.

JURISDICTION

THE JUDGMENT OF THE SUPREME COURT OF CALIFORNIA DENYING APPELLANT THE RIGHT TO A JURY TRIALAND A RIGHT TO APPELLANT"S ASSISTANCE OF COUNSEL, WAS ENTERED SEPTEMBER 28,1988.

THE SUPPLEMENTARY NOTICE OF APPEAL TO THIS COURT WAS TIMELY FILED IN THE MUNICIPAL COURT AND THE SUPREME COURT OF CALIFORNIA, WAS NOTED ON OCTOBER 27, 1988.

THIS APPEAL IS BEING DOCKETED IN THIS COURT WITHIN 90 DAYS FROM THE DENIAL OF HEARING BELOW, THE JURISDICTION OF THIS COURT IS IN INVOKED UNDER 28 U.S.C. Sec. 1257(2).

CONSTITUTIONAL PROVISIONS

AND RULES

UNITED STATES CONSTITUTION:

AMENDMENT VII 1791:

WHERE THE VALUE IN CONTROVERSY SHALL EXCEED TWENTY DOLLARS, THE RIGHT OF TRIAL BY JURY SHALL BE PRESERVED.

AMENDMENT IX 1791:

THE ENUMERATION IN THE CONSTITUTION, OF CERTAIN RIGHTS, SHALLNOT BE CONSTRUED TO DENY OR DISPARAGE OTHERS RETAINED BY THE PEOPLE.

CALIFORNIA STATE CONSTITUTION:,

ARTICLE I SEC 16, TRIAL BY JURY IS AN INVIOLABLE RIGHT AND SHALL BE SECURED TO ALL,.

ART I SEC 6: INVOLUNTARY SERVITUDE IS PROHIBITED EXCEPT TO PUNISH CRIME.

CALIFORNIA PENAL CODE: SEC 19 c OF INFRACTIONS; PUNISHMENT; JURY TRIAL; RIGHT TO A PUBLIC DEFENDER: A PERSON

CHARGED WITH AN INFRACTION SHALL NOT BE ENTITLED TO A TRIAL BY JURY.

HOW THE FEDERAL QUESTION WAS RAISED

AT THE EARLIEST STAGE OF THE HEARING BEFORE COMMISSIONER SHANE, IN THE LOS ANGELES MUNICIPAL COURT, THE APPELLANT DEMANDED A JURY TRIAL, AND ASSISTANCE OF COUNSEL, GUARANTEED BY THE UNITED STATES CONSTITUTION AND THE CALIFORNIA STATE CONSTITUTION, THAT THE CALIFORNIA penal code, sec 19C WAS UNCONSTITUTIONAL FOR REPUGNANCY TO THE RIGHT TO A JURY TRIAL AND ASSISTANCE OF COUNSEL, AS THE OPINION OF THE APPELLANT DIVISION OF THE CALIFORNIA SUPERIOR COURT INDICATED (PAGE I INFRA) THE COURT FOUND FOR RESPONDENT"S DEFENSE, THAT A DEMAND FOR A JURY TRIAL, AND BEMAND OF ASSISTANCE OF COUNSEL WAS WITHOUT MERIT.

THE SIXTH AND SEVENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION AND THE CALIFORNIA CONSTITUTION ART I SEC !% AND 16 CLAIM WAS REITERATED BY THE APPELLANT IN THE COURSE OF APPEALS AND IN THE CALIFORNIA STATE SUPREME COURT, THAT TITLE I SEC 19C OF THE CALIFORNIA PENAL CODE WAS UNCONSTITUTIONAL FOR THE REASON THAT IT DEPRIVED APPELLANT THE RIGHT TO A JURY TRIAL AND ASSISTANCE OF COUNSEL, WHEN THE CALIFORNIA STATE COURT"s OVERRULED THE APPEAL BY THE APPELLANT, IT THUS CONSIDERED AND EXPRESSLY REJECTED THIS FEDERAL CONSTITUTIONAL AND STATES CONSTITUTIONAL CLAIM.

STATEMENT OF THE CASE

THE APPELLANT MAKES THE FOLLOWING STATEMENT ON THE FACTS THAT TOOK PLACE WHEN ARRESTED AND WHEN HE WAS IN COURT

THE APPELLANT STATES UNDER THE PENALTY OF PERJURY THAT THE STATEMENT THAT HE IS ABOUT TO MAKE IS TRUE AND CORRECT AS TO THE BEST OF HIS KNOWLEDGE.

Robert L McCordic

ROBERT MCCORDIC APPELLANT

I was driving north on Balboa boulevard in Granada Hills, California approaching Devonshire street where I made a left turn onto Devonshire. I then made a right turn into a service station and proceeded to park alongside the pumps. A Los Angeles police car entered and stopped diagonally across the front of my car. Two police officers got out of the police car and alleged that I had made an illegal left turn and proceeded to write out a ticket. They then proceeded to impound my car so I told one of the officers that their was a gun on the back seat of the car and so that it would not be stolen in the police impound that I wanted to put it in the back of the car. He then drew a gun and pointed it at my head.

The car was released a couple of hours later on my demand.

They refused to take me before a magistrate immediately upon verbal demand and upon written demand as written by me upon the ticket by writing "40302 a, b, c, and d." This is California vehicle code.

I demanded a jury trial orally and in writing in the pleadings as is required by the United States Constitution.

Appellant was before Commissioner Shane in open court and demanded a jury trial and was denied. Appellant also asked for choice of counsel and was denied that also.

Bail is still set for $3000.00. and a warrant has been issued for my arrest.

THE QUESTION IS SUBSTANTIAL

THE QUESTION AS TO THE FIFTH AND SIXTH AMENDMENTS OF THE UNITES STATES CONSTITUTION AND THE CALIFORNIA STATE CONSTITUTION ARTICLE I SECTION 15 AND !6 IMPLICATIONS OF THE WIDESPREAD PRACTICE OF PENALIZING PEOPLE WHO DEMAND THEIR CONSTITUTIONAL RIGHTS TO A JURY TRIAL AND CHOICE OF COUNSEL TO ASSIST THEM IN THEIR DEFENSE BEFORE THE COURT. GIDEON VS. WARNWRIGHT 372 U.S.335(1963)

ANY PERSON IN THE UNITED STATES IS ENTITLED TO A JURY TRIAL THAT IS PROTECTED BY THE FIFTH AMENDMENT AND SIXTH AMENDMENT AND ARTICLE L SEC 15 AND 16 OF THE CALIFORNIA CONSTITUTION. THE CALIFORNIA CONSTITUTION. THE CALIFORNIA COURTS ARE USING SEC 19c TITLE I OF THE CALIFORNIA PENAL CODE DENYING DUE PROCESS CLAUSE. EVERY PERSON IN THE STATE OF CALIFORNIA IS DENIED A FEDERAL AND STATE RIGHT, FISKE V. KANSAS 274 U.S. 380 (1927): STERLING VS CONSTANTIN 287 U.S. 378 (1932).

DOES A PERSON HAVE A CONSTITUTIONAL RIGHT TO A JURY TRIAL AND CHOICE OF COUNSEL IF MORE THAN $20.00. IS INVOLVED TO EXPRESS HIS DEMAND FOR THE RIGHT TO GET A JURY TRIAL AND CHOICE OF HIS COUNSEL?

CONCLUSION

FOR THIS REASON THE COURT SHOULD GRANT JURISDICTION OF THIS APPEAL, AS TITLE I, SECTION 19C IS A PENAL CODE FOR CALIFONIA AND THAT CODE AFFECTS EVERYONE IN THE STATE OF CALIFORNIA.

Robert L. Mccordic

ROBERT L. MCCORDIC F.O. BOCX 33202,
GRANADA HILLS, CALIFORNIA. ZIP 91344.

CC. CALIFORNIA ATTORNEY GENERAL!S OFFICE
LOS ANGELES CITY ATTORNEY"S OFFICE

IN THE LOS ANGELES MUNICIPAL COURT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFRONIA

PLAINTIFF-RESPONDENT

VS.

ROBERT L McCORDIC

DEFENDANT-APPELLANT

FILED AUG 31, 1987

BY COURT APPEAL

CASE # F 53 52108

DESIGNATION OF RECORD

AND DECLARATION

ALLEGED DEFENDANT-DEMANDANT-APPELLANT, ROBERT L McCORDIC WHO AT NO TIME EVER WAIVED ANY OF HIS CONSTITUTIONAL RIGHTS INCLUDING MANDATORY RIGHT TO PROBABLE CAUSE HEARING IN THE WARRANTLESS ARREST HEREIN PURSUANT TO VEHICLE CODE SEC 40302(C) DENIEDBY THE CITING POLICE OFFICER AND THE ABSOLUTE RIGHT TO ELECT TRIAL BY WRITTEN DECLARATION PURSUANT TO VEHICLE CODE SEC 40902(A)(D) AND TRIAL DE NOVO DENIED BY THE TRIAL COURT HEREIN AND THE RIGHT TO HAVE A VERIFIED COMPLAINT WITHIN 15 DAYS OF ARRAIGNMENT PURSUANT TO PENAL CODE SEC 1382(3)(1) AND A JURY TRIAL, INSTEAD OF 45 DAYS, TRIAL TOOK PLACE MONTHS LATER,

A CAREFUL EXAMINATION TO THE RECORD REVEALS THAT THE APPELLANT WAS DENIED DUE PROCESS OF LAW AT ALL STAGES OF THIS CASE, AS DESCRIBED ON PAGE ONE HEREIN, DUE PROCESS OF LAW IS GUARANTEED BY THE CALIFORNIA STATE CONSTITUTION ART 1 SEC 7.

THE PURORTED CONVICTION HAS TO 3E SET ASIDE AND REVERSED AS A MATTER OF LAW, FOR OTHER REVERSIBLE ERRORS, AS APPELLANT WAS DENIED ASSISTANCE OF COUNSEL WHEN SUBJECT TO A CRIMINAL PROSECUTION ON A SOCALLED "INFRACTION." APPELLANT REQUESTED THE ASSISTANCE OF COUNSEL, AND AS AN INDIGENT HE WAS ENTITLED TO IT.

IT IS WELL SETTLED AT LAW THAT AN INDIGENT DEFENDANT IN A CRIMINAL PROSECUTION HAS AN ABSOLUTE RIGHT TO ASSISTANCE OF COUNSEL, IN FACT, IT IS ESSENTIAL RIGHT TO A FAIR TRIAL, AND APPELLANTS PURPORTED CONVICTION WITHOUT ASSISTANCE OF COUNSEL IS A LEGAL NULLITY AND A REVERSIBLE ERROR VIOLATING THE 14th AMENDMENT, SEE GIDEON V. WAINWRIGHT 372 U.S. 335 PROVES IT.

FAILURE OF THE COURT TO HEAR DEMURRER TIMELY IS REVERSIBLE ERROR, AS THE APPELLANT DID TIMELY FILE THE DEMURRER, HOWEVER THE JUSGE DID NOT ACT ON IT FOR SEVERAL NONTHS LATER, APPELLANT WAS DENIED A RIGHT

TO PROBABLE CAUSE HEARING WHICH IS MANDATORY ON DEMAND IN THE CAL VEHICLE CODE SEC 40302(A,B,C,D).

COURT ERROR IN DENYING TRIAL BY APPELLANT IN THIS CASE,

DATED AUGUST 31,1987

X_____
R.L.McCORDIC APPLANT

ANALYSIS

THE COURT COMMISSIONER/JUDGE SAID TO THE APPLANT YOU HAVE NO RIGHT TO A JURY TRIAL OR COUNSEL, JUST PAY THE FINE OR I WILL PUT OUT A WARRANT ON YOU WITH A HIGHT BAIL .

APPELLATE DEPARTMENT OF THE

SUPERIOR COURT STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA

PLAINTIFF/RESPONDENT

CASE # CR A25908

MEMORANDUM JUDGMENT

V.

R.L.McCORDIC

DEFENDANT/APPELLANT

THIS CAUSE HAVING BEEN SUBMITTED FOR DECISION, AND FULLY CONSIDERED, JUDGMENT IS ORDERED AS FOLLOWS:

THE JUDGMENT IS AFFIRMED.

FIRST, ASSUMING , ARGUEDO, THAT DEFENDANTS CONTENTION THAT HE HAD A GUN DRAWN ON HIM WHEN HE WAS ISSUED THE CITATION IS RELEVANT TO THIS APPEAL, THE OFFICERS TESTIMONY ESTABLISHED THAT HIS PARTNER WAS SIMPLY REMOVING A SHOTGUN FROM THE PATROL CAR, RATHER THAN AS DEFENDANT ASSRTA, DRAWING A GUN ON DEFENDANT.(PEOPLE V FRENCH 77 CAL APP 3d 511.

NEXT, DEFENDANT WAS NOT ENTITLED TO A JURY TRIAL ON THE INFRACTIONS. (PENAL CODE SEC 19c.

FINALLY, DEFENDATS REMAINING CONSTENTION, THAT A CLERK THREW HIS DEMURRER TO THE FLOOR, AGAIN ASSUMING THAT IT IS RELVANT TO THE APPEAL, IS NOT SUPPORTED BY THE RECORD ON APPEAL. P.J.MARGOLIS

J. ROBERTSON, J.WOODS.

ORDER DENYING REVIEW

AFTER JUDGMENT BY THE COURT OF APPEAL

2nd DISTRICT, DIVISION 5, NO B036821

S007141

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

R.L.McCORDIC

V.

SUPERIOR COURT OF THE COUNTY OF LOS ANGELES, RESPONDENT:

PEOPLE , REAL PARTY IN INTEREST.

APPLICATION FOR STAY DENIED.

PETITION FOR REVIEW DENIED.

LUCAS

CHIEF JUSTICE

FILED SEPT 28th 1988

COPYS SENT TO THE

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TO: APPELLEES

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OFFICE OF THE CLERK

COURT OF APPEAL

STATE OF CALIFORNIA

2nd APPELLATE DISTRICT

ROBERT N WILSON CLERK

DIVISION: 5 DATE 9-1-88

ROBERT L McCORDIC

VS.

PEOPLE OF THE STATE OF CALIFORNIA

2 CRIMINAL B03682'

LOS ANGELES NO.CRA5352108

THE COURT:

THE PETITION FOR APPEAL IS DENIED